

GOVERNMENT OF INDIA

File No.

C/551/20/68/JP
Volume

Ministry of

Department
Office of

SECTION

NOTES/CORRESPONDENCE

Subject

Indexed on

Initials

Ashes of Netaji Subhash Chandra Bose - Legal notice against bringing them to India.

SAD
RECORDED
7/5/75

Note: - p 1 to p 8 7

Corr: p 1 to p 6

May be kept up to 1980

Record A/B

Record C. Destroy in.....

To be noted in Sectional Note Book
Not to be noted

Initials of S. O./Supdt.

Initials of Clerk

G.L. Sharma

8-5-75

SECTION OFFICER
MINISTRY OF EXTERNAL AFFAIRS

Previous References

Later References

C/551/2/68/JP

keep 28-11-75



Declassified

Arjun Kumar Chatterjee
(ARUN KUMAR CHATTERJEE)
संयुक्त सचिव (सी.एन.टी.)
Joint Secretary (CNV)
विदेश मंत्रालय, नई दिल्ली
Ministry of External Affairs
New Delhi

GOVERNMENT OF INDIA

5

~~SECRET~~ SECRET

File No.

C/551/20/68/JP
Volume

Ministry of

Department of

SECTION

NOTES/CORRESPONDENCE

28

Subject

Indexed on

Ashes of Netaji Subhash Chandra Bose - Legal notice against bringing them to India.

Initials

SAD
RECORDED
7/5/75

Note: - D I K P 2 7
Cor: P I K P L

Record A/1
Record C. Destroy in

To be noted in Sectional Note Book
Not to be noted

Initials of S. O./Supdt.

Initials of Clerk

6

10/8/75

G. L. Sharma

85-75

SECTION OFFICER
MINISTRY OF EXTERNAL AFFAIRS

Previous References

C/551/2/68/JP

Later References

Declassified

Chatterjee 11/2/15

(ARUN KUMAR CHATTERJEE)
Joint Secretary (CNV)
Ministry of External Affairs
New Delhi

No. C/551/20/68 JP SECRET

Ministry of External Affairs
(East Asia Division)

D.No.12612-EAD/68 -- F.R.

SN 1

(No limit to which some lawyers are prepared to go in fooling clients, and no dearth of 'looney' characters!) MEA may please see and deal with the notice suitably in consultation with Min. of Law.

Sd/- S. Banerji
J.S., PM Sectt.
6.9.68

MEA (Shri Manjit Singh)

I doubt what this amounts to in legal terms.

It'd. Manjit Singh)
8/9

XXXX

It'd. C.V. Ranganathan

US(EA)

A reference is invited to the Minutes of the meeting held in the room of the Cabinet Secretary on 17.2.68. It would appear that, while the Ministry of External Affairs was concerned with the point whether any fresh enquiry into the death of Netaji was necessary or not, all the other issues relating to the ashes, memorial, public holiday, etc. were to be dealt with by the Ministry of Home Affairs and other ministries concerned. The subject-matter of the present Notice would appear to concern the Ministry of Home Affairs. It is presumed that they have already certain papers relating to the case, referred to in para 2 of the letter at F.R.; no information relating to other points is available in this Ministry. As far as the Ministry of External Affairs is concerned, there is no move, at the moment, to bring the ashes of Netaji Subhash Chandra Bose from the Renkoji Temple, Tokyo, to India. In this connection, the attention of the Ministry of Home Affairs is invited to this Ministry's O.M. No. C/551/2/68/JP, dated 12.9.68, with which a copy of a recent communication from the Ambassador of India, Tokyo, as well as a copy of this Ministry's telegram No. 24719, dated 8.8.68 have been forwarded to that Ministry.

2. The Ministry of Home Affairs may kindly take these papers over for favour of disposal.

(Y.R. Dhawan)
Under Secretary(EA)
12-9-68.

Dir (EA)

Min. of Home Affairs

57/68-10-11
18/9/68

5296-224/68
Ministry of Home Affairs,
New Delhi.
16 SEP 1968
R. No. 116154

262-050066

13/9

M/HA

12612-EAD/68

16/9

W/HA
13/9/68
16/9

Ministry of Home Affairs
Political II Section

The notice at S. No. 1 and 2 and E. A. Ministry's note at page 1 ante may please be seen. Law Ministry may kindly see the notice for advice. It will be seen from the E. A. Ministry's O. M. at S. No. 3 that there is no proposal to bring the ashes to India at present as apprehended in the notice.

2. The question for consideration is whether this notice should be handled by us or by the E. A. Ministry since the ashes have not yet been brought here and since the expenditure for keeping it in Japan is probably being met by E. A. Ministry. Any doubt about the genuineness about the ashes would ~~also~~ be a matter with which the E. A. Ministry would be concerned as the Netaji Inquiry Committee was set up by that Ministry. Attention in this connection is also invited to our file No. 24/1/57-Poll.I (relating to a resolution which was proposed to be moved in the Lok Sabha on the question of bringing Netaji Bose's ashes to India and erecting a suitable memorial thereon) the Brief in which explains the findings of the majority report and the dissentient report on the ashes and also contains the views expressed by Pt. Nehru on the question of bringing the ashes to India. We have more files dealing with question/resolution in Parliament on the question of bringing the ashes and setting up of a suitable memorial to Netaji Bose. As the main objection to bringing the ashes to India is the controversy over the correctness of the findings of the Netaji Inquiry Committee we would be concerned only with the erection of a suitable memorial after the doubts about the genuineness of the ashes are dispelled and the ashes are brought to India. The case of bringing the ashes to India is similar to that of bringing the relics of Tantya Tope from the British Museum for which E. A. Ministry seem to be taking the necessary steps. Attention in this connection is invited to S. No. 1, pages 1, 10 and 11/N and S. No. 8 of file No. 32/48/68-Poll.I(A) of this Ministry. Probably Netaji's sword was also brought to India by E. A. Ministry.

*Remitted to
MHA*

slip

*Slip
Remitted to
MHA*

*Kus
18.9.68
18.9*

US (Poll II)

Till the fact of the Netaji's death has been accepted by the remaining sceptical members of the Bose family and a decision taken to bring back the ashes to India, the matter would appear to be the concern of the E. A. Ministry. However, at this stage, we may ask the Ministry of Law for their comments on the Advocate's notice at H-1-61-2-2179

DS 101

Ministry of Law
(Department of Legal Affairs)
- Advice (B) Section
Dy. No. 4572/68
Date 24/9/68

24/9/68

R1

It appears that from noting - MEA
that they are not yet dealing with the
question of bringing the ashes to India nor
is this Ministry aware of any such proposal.
I am in agreement with the notes at page
that MEA should have dealt with this
case. However at this stage, Law
Ministry may please see and advise
if any action is to be taken

Shri G. A. Shah Min. of Law

Shri G. A. Shah
24/9/68

MHA No. 8512/68 - Part II dt 23.9.68

MOVES IN THE MINISTRY OF LAW
(Department of Legal Affairs)
Advice (B) Section

It is seen that at present there is no
proposal to bring the ashes to India. Even if
the ashes are brought to India, the party on
whose behalf the notice has been given, cannot
suffer any damages. If the person concerned is
dead, then the bringing of the ashes for the
purposes of performing the religious rites cannot
in any way affect the fact of death. Under sec. 108
of the Indian Evidence Act, when the question is
whether a man is alive or dead ^{and} it is proved that
he has not been heard of for seven years by those
who would naturally have heard of him if he had
been alive, the burden of proving that he is alive
is shifted to the person who affirms it. In the
present case the burden of proving that the person
concerned is alive will be on those who affirm it.
The bringing of the ashes will not in any way affect
the presumption arising from section 108 that the

6

person concerned is dead, since those who^{would} have naturally heard of him if he had been alive have not heard of him for seven years. Even apart from this by bringing the ashes etc. the person on whose behalf the notice has been given cannot in any way be ~~damned~~ ^{damned}. If the person is alive and the party can prove it the fact of bringing the ashes will not affect him. If he is not alive and the party cannot prove that he is alive, then also the bringing of the ashes will not affect the position. As such the party does not appear to have any cause of action against the Union of India. No reply need be sent to the notice. If any suit is filed it will have to be defended.

K. S. Pandalai
(K. S. PANDALAI)
J.S. & L.A.
28-9-1968

Ministry of Home Affairs

Ministry of Law U.O.No. 4572/68/Advice (B) D/ 28-9-68

Ministry of Home Affairs,
New Delhi.
-3 OCT 1968
C. R. No
Diary No 121541

J.S. may like to see. we may set the
Hqs to MEA for taking further action if necessary.

J.S. (D/1)

J.S. (D/1)
4/10/68

J.S. (D/1)
P. S. (D/1)

22721-100/68
4/10

P. S. (D/1)

J.S. (D/1) shows pub side also &
Hqs to MEA after keeping extracts

C. S. (D/1)
14.10.68

P. S. (D/1)

J.S. (D/1)
10/10

J.S. (D/1)

J.S. (D/1)
4/10

J.S. (D/1)

28/9

J.S. (D/1)
14/10

9.74/68-1011
14.10.68

Political II Section

These papers may now be shown to our Public side with reference to orders pre-page, before these are returned to E. A. Ministry.

KH
15-10-68

Sanandharan
16/x/68

Pub I Sec

Recd on 12/10
at 5 pm
1968

5276/68 PWS
14/10/68

As already stated in our note dated 1st 18th September 68, on page 3 anti. We are not concerned with this matter.

SD
24/10/68

Prasanna
28.10.68

D. 9506/68 PWS
30/10

W
29/10

29/10 Pol. II

Political II Section

Ref: Orders pre-page.

Relevant extracts have been retained. These papers may be returned to E. A. Ministry

D. 15199-ENR/68
6/11

KH
2-11-68

Sanandharan
4-11-68

1370-USCA/68
4/11/68

Min of E. A (Shri Y. R. Dhawan, M.S. (E.A.))
D. 9506/68 4/11/68

1390-USCA/68
7/11/68

Mr. KH
7-11-68

M.H.A. U.S. No. ... Pol. II ...

Ministry of Ext. Affairs.
(E.A. Dn)

4078-DS(EA)/68

In view of the stand taken by the M.H.A. vice their note on pp. 4-5 anti, we may retain these papers in this Ministry. Law Ministry is not at 28.9.68 may be seen for information.

Thanks. Law Ministry instructions. No further action on this - at least for the time being. DSCA 9-XI.

U.S.(EA) 14/11/68

Rtharany
14/11/68

Shri Jethanand (Betab)

B.A., LL.B.,

ADVOCATE

Dy. Dated 5-9-1968.

dated 12/9/68 Dir (EN) 68

To

- 1) Smt. Indra Gandhi,
Prime Minister of India,
Prime Minister's Secretariat,
New Delhi.
- 2) Shri S. Nijlingappa,
President: The Indian National Congress,
7-jantar Mantar Road, New Delhi.
- 3) The Union of India,
Through: His Excellency, Dr. Zakir Hussain,
President of The Indian Union,
Rashtryapati Bhawan, New Delhi.

Dated 12/9/68

Dear Madam & Sirs,

Under instructions from and on behalf of my client Shri A.C. Sarkar, Acting President of the "Akhand Bharat Sabha" with its Head Quarters at Delhi, I have to serve you with the following notice:-

- 1) That my client is the Acting President of the "Akhand Bharat Sabha", whose Head Quarters are situated somewhere at Delhi. The President - General of this Organization is "Netaji Subhash Chandra Bose"; but in his absence my client is carrying on the work and performing the duties of the President. My client Shri A.C. Sarkar is a National of India and a peaceful citizen of Delhi.
- 2) That one Iqbal Bahadur Saksena has filed a case under section 420 & 120-B of the Indian Penal Code against my client which is pending in the courts of New Delhi - Sub Divisional Magistrate. Parties Nos. 1 & 2 along with Deputy Prime Minister of India, the Home Minister Shri Y.B. Chawan, Sardar Swaran Singh - the defence Minister, Shri Shah Nawaz Khan, Shri P.C. Sen Ex. Chief Minister of

continued...2

NEA may
hear &
deal with
the notice
suitably in
consultation
with M. Law)

(No limit to
some
which lawyers
are prepared to
go in for
clients, and
no dearth
of 'looney
chances'.)

I doubt if many
what this
NEA amounts to in legal terms
(can't say much)

No. PMS-15/94/68 219/68.

DS(EN) 68
US(EN) 68

Shri Jethanand (Betab)

B.A., LL.B.,

ADVOCATE

923-VSCA/68
7/45-A, NEW DOUBLE STOREY

LAJPAT NAGAR-IV,

NEW DELHI-14.

Dy. Dated 5-9-1968.

To

- 1) Smt. Indra Gandhi,
Prime Minister of India,
Prime Minister's Secretariat,
New Delhi.
- 2) Shri S. Nijlingappa,
President: The Indian National Congress,
7-jantar Mantar Road, New Delhi.
- 3) The Union of India,
Through: His Excellency, Dr. Zakir Hussain,
President of The Indian Union,
Rashtryapati Bhawan, New Delhi.

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Swaran singh - the defence Minister, Shri Shah

Nazam Khan, Shri P.C. Sen Ex. Chief Minister of

continued...2

(No limit to some which lawyers are prepared to go in forship clients and no dearth of 'looney' characters!)

NEA may have to deal with the notice suitably in consultation with M Law)

I doubt if many what this NEA amounts to in legal terms (can't say) Singh

16.05.1974 p. 219/68

Bengal and 17 others are also cited as accused persons in the same case.

3) That parties Nos. 1 and 2 in order to save their skin in the afore-mentioned criminal case have manipulated certain things and are now trying to obtain the so-called ashes of Netaji Subhash Chandra Bose from Japan and dispose them off and thereby demonstrate to the world that Netaji Subhash Chandra Bose had actually died in an air crash on 19th August, 1945.

4) That with this aim in view party No.2 who is the President of the Indian National Congress, all of a sudden dashed to Japan, after the filing of this case. There he visited Rankoji Temple where the so called ashes of "Netaji Subhash Chandra Bose" are kept. Now party No.1 i.e. Smt. Indra Gandhi, The Prime Minister of India is also going to Japan and she will be there in a very short time. From this my client apprehends that parties Nos. 1 and 2 have formed a conspiracy and they have manipulated certain things which will come to light after some time. My client has however learnt that parties Nos. 1 and 2 have conspired to obtain these so called ashes of Netaji Subhash Chandra Bose, at present kept in the Rankoji Temple of Japan from the Japanese Government by putting a request through party No.3 and immerse them in the Ganges according to Hindu rites. By doing so parties Nos. 1 & 2 want to destroy a big proof that will expose them in the afore-mentioned criminal case. It may be recalled

Continued.....3

that an American expert who had under-taken the chemical analysis of these ashes had given his opinion that these so called ^{ashes} of Netaji Subhas Chandra Bose were actually the ashes of an animal and not of a human being. My client who is also an accused person in the aforesaid criminal case, would like to produce a copy of this report in the News Papers and if necessary through the court of the learned S.D.M. and the Government of India bring a small quantity of these ashes and get them chemically analysed. By doing so my client shall be in a position to prove that Netaji Subhas Chandra Bose is really alive and the story of Netaji's death in an air crash as propagated by party No.3 was in fact a hoax. But ~~the~~ in case these ashes are immersed in the Ganges as parties Nos. 1 & 2 intend to do, then this last proof of Netaji's being alive would also be destroyed and my client will have no chance to prove the fact of Netaji being alive as well as his innocence in the afore-mentioned case.

5) That these so called ashes of Netaji cannot be obtained except with the concurrence of party No.3 i.e. Union of India. All this business of securing these ashes will be on the Governmental level and the concurrence of party No.3 in such a matter is essential. Hence party No.3 is also liable to my client. As His Excellency Dr. Zakir Hussain is the President of the Indian Union, the Union Government is represented by him. And if the nefarious conspiracy of parties Nos. 1 & 2 succeeds and these so called ashes of Netaji Subhash Chandra Bose are immersed or disposed off in some other way

according to Hindu rites during the steward-ship of Rashtrapati Dr. Zakir Hussain, then my client will have no other alternative but to proceed against all of you in a court of law. And iff the disposal of these ashes takes place during the course of President-ship of His Excellency Dr. Zakir Hussain, then in that case my client reserves the right to proceed against His Excellency Dr. Zakir Hussain personally too in case he retires from the President-ship of the Indian Union. //

6) That my client had the pleasure of meeting Netaji Subhash Chandra Bose twice or thrice in a place near Delhi in the year 1963 & 1964. Since then he has been a staunch followers of the ideals and aims of Netaji Subhash Chandra Bose. He is also a great admirer of the personality of Netaji and has an unflinching faith in his leadership. On all these occasions my client recognised "Netaji" very well. Hence he can never believe the story that "Netaji" had died in an air crash on 18th August 1945.

7) That Netaji Subhash Chandra Bose is the Unique leader of India. He is the uncrowned ^{King} ~~king~~ of fifty crore hearts of our country-men. So any article connected with his life story is a National Property and that article can not be disposed off at the whims of a handful of people. The workers of the "Akhand Bharat Sabha" cannot tolerate this that the last proof of Netaji's existence be destroyed by the afore-mentioned parties in any way they ~~like~~ like.

8) That in case the so called ashes of Netaji are immersed in any river or disposed off in any other way

then my client would suffer an irreparable loss. Not only he but all the fifty crores of the Indian people would suffer an irreparable loss .

9) That my client further apprehends that by removing these ashes from the Rankoji Temple of Japan the party No.3 and its officials might even change the ashes and replacee them with human ashes. Human ashes are easily available in India and Party No.3 and its officials are capable of playing dirty game of replacing these ashes with those of a human being and thus through a fresh chemical analysis try to prove that these ashes are of a human being and hence of Netaji Subhash Chandra Bose. In India, however, the ashes of a human being are easily available.

10) That Netaji's life is very precious for India and since he is alive, the Indian Nation cannot tolerate that any difficulty should be created in his bid for appearing in person before the Indian peoples. By destroying these ashes you all ^{the} be three parties would be creating difficulties for Netaji's appearance as and when he likes.

11) My client , therefore, gives you a warning that in case you bring these so called ashes of Netaji from Japan and dispose off or destroy them in any manner, then my client would proceed against you all for damages to the tune of Rs. 50,00,000/- (Rupees Fifty lakhs) in a court of law. In that case you will be jointly and severally liable and my

reserves the right to recover this amount of Rs.50,00,000/- (Rupees Fifty Lakhs) from all of you or from one of you as he deems fit. As sixty day's notice U/s. 80 of the civil Procedure code is essential, my client shall proceed against you after sixty days of the receipt of this notice.

Delhi:

Dated 5-9-1968.

Yours faithfully,

Jethanand (Betab)
(Jethanand (Betab))
Advocate.